

G. R. S. 58]

Previous references.

1913. 14

(Courts.)

File No. 41-13

Serial Nos. 1-7

Later references.

CS 159-21(1-3)

hts d/s 91-24

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-7

Part B for June 16

SUBJECT.

Furnishing the accused in
criminal cases with copies of complaints

Subj. No. 53 of 1914

7) To The Regt. Ch Ct } 3824-8
" J. G. of Pol. } 253/16
" DC of Kadur & Kolar }

states that the suggestion of
the Chief Commr is approved. & that the
Chief Ct will be requested to prepare the
forms required.

W D 1851-GPB-20,000-18-12-18

Richard
47/16

GENERAL AND REVENUE SECRETARIAT.

(*Contd.*)

NOTES

File No. 4173

FILE HEADING.

*Furnishing the accused in criminal cases with
copies of complaint. (Subject no. 53 of 1912).*

From

No.	Dated	Received
Diary No. }	Enclos.	Spare Copies. }
		Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

NOTES--First Sheet.

SUBJECT No. 53.

The accused to be furnished with copies of complaint.

Messrs. Mahomed Imam Sab, Mir Mahomed Sab, and Subba Rao, Tarikere taluk.

Summary of discussion. Just as in civil cases, the accused in criminal cases may be furnished with copies of complaints along with the summons. The present practice of obtaining copies of such complaints on the presentation of petitions causes hardship.

Reply of Government.—Noted.

Subd. with a draft to the Registrar, calling for the opinion of the Chief Court.

K.V. (123) SW
2.8.13 4/8/13

2 Issued
4/8

To The Registrar, Chief Court

No J 438 of 7.8.1913

Invite attention to D.A. Subject no 53 and call for the opinion of the Chief Court in the matter.

From the Same Officer

No 806
70 of 18.8.13

Furnish the opinion of the Chief Court in the case of private complaints and state that the Police Dept may also be consulted as regards Police cases.

3 The Chief Court is agreeable to a rule being framed directing the complainants to furnish a copy of the complaint and of their sworn statement for service on the accused along with the processes.

4 Regarding police cases their opinion is stated in para 2 of their letter.

M. T. Q.

Serial
No.

5 May, the D.G. of Police be consulted on
Police cases as suggested by the Chief Constable?
Sub^d for orders with a draft to the D.G.P.

K.G.-129

20/8/13

21

No. Put up ~~at~~ IssueNot
21/8

3

To The D.G. of Police in Mysore

No J 652 D/22.8.13

Ballisthor's opinion regarding want
of copies of complaints ~~in~~ in Police
cases to accused persons.

6 No reply to above communication
seems to have been received. A draft ^{D.O.} reminder
is being. Two routine reminders were issued
on 24-2-1914 & 18-4-1914. The subject was
repeated last year.

ASSN. 9/9/13

7 Issue at mu

8

Issued no. 7710 D/9.9.1914

From the D.G. of Police in Mysore

Camp No. 11 D/22.9.1914

States that the subject obviously refers
to complaints presented to the Magistrate
direct by the complainants and adds that
the report which the Police make to the Magistrate

P.O.

NOTE—Contn. sheet.

(4)

Serial
No.

after a case is investigated is a document
a copy of which the accused is not entitled
to.

8) Subd for order. May the discussions
on the subject in the coming Assembly be
awaited?

kg. 116
24.9.1914 M

9) J.
24/9

PTC

SUBJECT No. 22.

Grant of copy of complaint petition to the accused along with summons.

Mr. A. Narasimhaiya, Malvalli taluk.

Summary of discussion.—As copies of the plaint are delivered to defendants along with summonses in civil cases, arrangements may be caused to be made for the delivery of copies of complaint petitions in criminal cases also to the accused persons along with the summonses as it will give greater facilities to the parties and the Magistrates.

Reply of Government.—No *prima facie* case has been made out for the grant of the prayer. But the question will be examined again.

10) Sub^d for orders. See opinion of the Chief

Comm^r and the D^y. of Police have already been obtained.

Reg. 116
15/2/15 M

11) Please find out from the criminal Rules of Practice of the various High Courts, if any such rules framed anywhere under Sec 4 of the Criminal Procedure Code.

Reg.
10/7/15

Sub^d Rules of practice of the Madras, Bombay & Calcutta High Courts were looked into. ~~and~~ No such rule could be traced.

Reg.
17/8/15 M

13) Complaints may be made orally or in writing, and copies are requested to be given in the latter case. It is not clear why the complainants shall have the liability in providing a copy. The accused may himself apply for and obtain a copy. If a complaint is made orally, then the accused can apply for and get a copy. In the sake of uniformity, it appears that the ~~same~~ proposal may not be considered expedient to grant. It can not be held that a complainant who makes his complaint in writing should be punished with the liability of giving a copy, when one who makes his complaint orally has no such duty. Further, ~~there is~~ no sanction can be imposed if a complainant fails to furnish a copy. His complaint cannot be rejected if he fails to furnish a copy.

File No. 41 of 1913-14

Serial
No.

14) The magistrate's action will then be illegal. He cannot dismiss a complaint on grounds stated therein.

15) As regards the Police charge sheets, there is a difference of opinion among the Judges whether the accused can get a copy at all under the existing law. (Vide Queen Empress v. Brumbyam 20 M 189). It seems rather unsafe to deny by an executive order that a copy of such charge sheets should be furnished to the accused.

18
19.3.15

First-Member)

16) The forms of summonses & warrant of arrest ~~are~~ given in the Code require that the nature of the offence charged should be stated. Cannot a rule of practice be issued that there should be always sufficiently clear to give the exact nature of the accusation, and that

Serial
No.

Where necessary ~~for~~ for the purpose copy of the Complaint given or ~~ref~~ laid should be attached?

1) If required then b.h. it may be consulted as to form.

23/3/15

- m/o

S. m/o

18) Please put up Draft to Chief Comm

S. m/o

Draft letter to the Registrar, Chief Comm,
in Sub.

Ug. m/c
14.6.15

(19) Issue

S. m/o

5. To the Registrar, Chief Comm, no. 4368 of 18-6-15

Enquires if a rule of practice could be issued for the summons or warrant of arrest to contain particulars giving the exact nature of the accusation ^{& if necessary} for a copy of the complaint to be attached thereto and requests that if a rule be agreed to be issued the additions to the forms if any may be indicated

1983
C/o File No. 41 of 1913 1/4Serial
No.

6.

From the Registrar Chief Court no 32678
261

10 Jan 16

States that for reasons given it is not expedient ^{to} furnish copies of complaint to ~~the~~ accused persons and that in nearly every case at present, an accused person get sufficient information to prepare his defence ~~and~~ that the judges consider that some amplification of the form of summons or warrant, in the manner indicated, is all that is necessary, and that if this meets with approval forms will be drafted.

20) Subd for orders.

31.1.16

21) The judges do not appear to favour the view that copies of Complaints should be given to the accused. The form ~~was~~ suggested by them may be approved.

E
up

First Member)

22) I quite approve of the suggestion of the Ch. Court. They may be asked to prepare the draft forms.

7/2/16

H. M. S. R.

23) Duff

Serial
No.

24)

Draft order is sub.

kg.
10/7/16

kg

First Member)

Draft approved by the 18c-

member

Done
23/3

kg
21/3/16

Done
kg

To the Registrar of Court

The S. P. of Police

The Des of Madras Bangalore and
Imperial etc.

no 3824-8

25th. Mar 16

Approval of the suggestion of the
Chief Court in the matter.

Serial No. 1

No.

To

The Registrar, Chief Court
of Mysore.

Sir,

I am directed to invite your attention to Subject no. 53 of the Rep. Assembly of 1912 & the reply of Govt. thereto in the matter of 'furnishing the accused in criminal cases with copies of complaint & to request you to be so good as to favour Govt. with the opinion of the Chief Court in the matter.

I have etc

Spol over.

For Secy to Govt

16N(123)
SUBJECT IN
2-8-13. 4/8/13

✓

No: 806
70

BANGALORE,

18th August 1913.

From

The REGISTRAR of the
Chief Court of Mysore.

To The SECRETARY to Government,
General and Revenue Departments,

BANGALORE.

10/3 to 14
60/5
41/1913-14
2

Sir,

With reference to your letter No. J438-Cts ~~41~~ 41-13-1 dated 7th instant, asking for the opinion of the Chief Court on subject no 53 of the Proceedings of the Representative Assembly of 1912, in the matter of furnishing the accused in Criminal Cases with copies of complaints, I am directed to state that, in the case of private complaints, the Chief Court is of opinion that under section 554 of the Criminal Procedure Code a rule may be passed directing the complainants to furnish a copy of the complaint and of the sworn statements made by them for service on the accused along with the processes, the names of witnesses mentioned by the complainants being omitted in order that they might not be tampered with by the accused before trial.

As regards Police ~~cases~~ cases, it is considered objectionable to allow accused persons to have a copy of the charge sheet prior to the trials; but a copy of the information or complaint by which the Police are set in motion might be furnished to the accused persons at the time the processes are served or executed. This, however, is a matter on which the Police Department will probably have something to say.

I have the honor to be,

Sir,

Your Most Obedient Servant,

[Signature]

REGISTRAR.

E.S.

18.

12
65 File No. 41 of 1913-14

Serial No. 3

Diary No. of letter replied to _____

No. J 652

General and Revenue Secretariat

To

The I.G. of Police in
Mysore

Sir,

Date of issue 22.8.13

Signed by Mr. S. P. Rajagopal
Chairman

I am directed to invite your attention
to subject No. 53 of the
Proceedings of the Representative
Assembly of 1912.....and the reply of
Government thereto in the matter of
the accused being furnished
with copies of complaint

and to request you to be so good as to favour

^{early}
Govt. with ~~the opinion of the Chief Court~~

your opinion regarding the

~~in the matter at an early date.~~ grant of

Such copies in Police cases.

List of enclosures _____

Drafted by K. G. - 129
20/8/13

Copied by _____

Examined by K. G.

I have, etc.,

[Signature]

For Secretary to Govt.

J 1019

No. *C. 1019* OFFICE OF THE INSPECTOR GENERAL OF POLICE IN MYSORE.

Encl.

From

10/10/18. Dated Camp Mysore, 22nd Sep. 1914.	
SECTION	<i>45</i>
FILE NO.	<i>410/1913</i>
REMARKS	<i>6</i>

Diwan Bahadur C. SRIKANTESVARA AIYAR, B.A., B.L.,

Inspector General of Police in Mysore.

To

D. M. Narasinga Rao, Esqr., B.A. B.L.,

Offg. Secretary to the Government of H. H. the

Maharaja of Mysore, General & Revenue Departments.

Sir,

With reference to your D. O. letter No. J.710 dated the 9th instant, calling for my opinion regarding subject No. 53 of the Dasara Representative Assembly Proceedings of 1912 requesting the grant to accused persons of copies of complaints along with the summonses, I have the honour to state that the subject obviously refers to complaints presented to the Magistrates direct by the complainants. In Police or cognizable cases, as defined in the Criminal Procedure Code, sources of information are in many instances other than regular complaints; and after a case is investigated, the Police do not make a complaint to the Magistrate as defined in section 4 of the said Code, but forward a report embodying the substance of 'their investigation' in the form of a 'charge sheet', which is not a document the copy of which the accused is entitled to.

I have the honour to be,
Sir,
Your most obedient servant,

C. Srikanteswara

Inspector General of Police.

Re Grant of copies of complaints to accused persons

G. R. S. 26]

1576

File No. 41-19

Serial No. 5

Diary No. of letter replied to

No. 4368.

General and Revenue Secretariat

()

, the

191

To

The Registrar,

Chief Court

Date of issue

18 / 6 / 1915.

Signed by

Mr. G. Greenivasa Iyer

Sir,

In inviting your attention
to correspondence ending with your
letter no. $\frac{806}{70}$, dated the 18th August 1913,
I am directed to state that the
forms of summons and warrant
of arrest given in the Code of Cr.
Procedure require that the nature
of the offence should be stated therein.
I am to enquire whether a
prover.

SUBJECT.

rule of practice could be issued by
the Chief Court ^{enjoining} that this statement
should always be sufficiently clear
to give the exact nature of the
accusation and that, where necessary
for the purpose, a copy of the
complaint given or information
laid should also be attached.

If the Chief Court should
agree to issue the rule of practice
suggested above, I am to request
that the ~~amend~~ additions ^{if any} to
the existing forms which may
be deemed necessary may also
be indicated.

I have to

List of enclosures,

Es 4/6
MNH: Secy
MNH
15/6

Copied by

Examined by

No. 3267
261

Chief Court of Mysore,
Bangalore, dated the 10th January 1916.

15

From

N.T.Gopaliengar, Esq., B.A., LL.B.,
Registrar of the Chief Court of Mysore,

To

DIARY No.

1983

D.M.Marasinga Rao, Esq., B.A.

B.L., 12/8-196

Secretary to the Government

of Mysore, Courts

General Department.

41-14

6

S i r ,

Adverting to correspondence ending with your letter
No.J.4368/Cts.41-14-5 dated the 13th June 1915 enquiring whether
a rule of practice could be issued by this Court enjoining that
in all summons and warrants of arrest issued by criminal courts the
statement of the nature of the offence should always be sufficient-
ly clear and that where necessary for the purpose, a copy of the
complaint given or information laid also be attached to the sum-
mons or warrants, I am directed to state that a complaint under
the Code of Criminal Procedure need not be made in writing and
indeed the truest complaints are very likely to be those made
orally to the nearest Magistrate just after the offence. Without
an alteration of the Code complainants cannot be compelled to put
their complaints in writing, and it would not, in the opinion of
the Judges, be politic to require them to do so. If they are
not compelled to do so, it seems improper to compel them to make

a copy, for the accused, of the Magistrate's record of their complaint - but there would be no harm in supplying the accused with a copy made in the Magistrate's office at the Government expense: its preparation however would mean extra work and it may be doubted whether it is required.

2. No doubt there is a large proportion of false and frivolous complaints in petty cases, and it might be thought desirable to add to the expenses of complainants to deter them from presenting such complaints, but it is the humblest and poorest complainant who cannot afford the luxury of false complaints who would be deterred from preferring a true one if he had to make it in writing and supply a copy of it for each of the accused persons in the case.

3. Cognizable cases may also be instituted on complaint to a Magistrate and referred to the Police and the complaint may be in writing; but it would be wrong to hamper the Police investigation by requiring them to serve copies of the complaint on the person or persons therein named by the complainant, when the object of the investigation is to find out whether those persons are really those who ought to be accused. Moreover in cognizable cases, the Police may arrest without a warrant. It would be impossible to make a rule that when they do so, they should have

3.

a copy of a complaint with them, a complaint which might accuse a person entirely different from the person arrested.

4. Even under present circumstances an accused person gets in nearly every case fully sufficient information to enable him to prepare a defence before he goes first into court, but he always gets plenty of opportunity of making his defence thereafter.

5. The Judges therefore think that some amplification of the forms of summons and warrants will be all that is necessary in the interests of accused persons.

6. I am to suggest that a form may be supplied to Magistrate running somewhat in the following terms:-

" So and so of such and such a place has complained that you on such and such a day at such and such a place

assaulted		
caused ~~to~~ hurt to		him
threatened		
defamed		
trespassed into		
his fields, etc.		

and have thereby committed an offence punishable under section
of the Indian Penal Code.

If

4.

If the suggestion is approved forms will be drafted.

I have the honor to be,

S i r ,

Your most obedient servant,



R E G I S T R A R .

H.C.C.



Accused person being furnished with copy of complaint.

G.R.S. 28]

File No. 41-13
Serial No. 7

Diary No. of letter replied to _____

GENERAL AND REVENUE
SECRETARIAT.
()

Proceedings of the Government of His Highness
the Maharaja of Mysore

READ—

, the 191 .

Date of issue 25th March 1916

Signed by Mr. C. Sreenivasa S.

Subject: Nos 53, 38 and _____ of the
proceedings of the Representative Assembly
of the years 1912, 13 & 14 re: _____
_____ matter of the accused persons being
furnished with copies of complaint
~~ORDER THEREON. No.~~
along with the summons.

2). Letter no C 11 of 22nd Sep 1914
from the S.G. of Police at Mysore
furnishing his opinion in the matter.

3). Correspondence ending with
N. over

SUBJECT.

Letter no. 3267 of 10 Jan. 1916
261

from the Registrar, Chief Court,
stating that the Judges do not
consider it expedient to ~~compel the~~
~~complainants~~ to lay down a rule
that the accused persons should be
furnished with copies of complaint,
that in nearly every case, at present,
an accused person gets sufficient
information to prepare his defence,
that the Judges consider that some
amplification of the forms of
Summons and warrant in the
manner indicated is all that
is necessary and that, if this
suggestion meets with the approval of
Govt., the new forms will be
drafted.

Order no. 93824-8.

Govt. approve of the

Suggestion of the Chief Court. ^{The Secy} ~~which~~
will be requested to
may prepare ~~and submit~~ the
draft forms ^{required} ~~and submit~~ to
~~for approval~~

For Secy. Govt.
2/10/16.

21/3/16
To The Registrar, Chief Court
The Secy. of Police in Mysore
The Dy Commr of Kadur, Bangalore
Communication & Mysore Dist. for
Copy to the Osara Section.

kg. 21/16